

IN MEMORIAM: YAP THIAM HIEN (1913–1989)

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Just a month short of his seventy-sixth birthday, on Sunday, April 23, Yap Thiam Hien died at the start of the INGI conference in Belgium. The cause, apparently, was an aortic aneurysm. Until the end, as one would expect of him, he was working among colleagues concerned with issues of justice in Indonesia. The news that he was gone quickly spread grief and a numbing sense of loss. Pak Yap himself evidently had expected it soon and mentioned the premonitions to friends. Over the last few years he had begun to complain lightly that his body had slowed and his concentration slipped, but he could not stop working. After the death last year of his close friend Lukman Wiriadinata, he wrote a will and began to take leave from those who did not want to hear of it.

It is easy to understand the respect so many had for him. Even those who fought with him—who didn't?—are quick to admit that this was a remarkable man: acute, responsible, principled, ethically consistent, and in no way self-serving. In a conversation once with a New Order figure who was dismissing critics of the government as self-interested, I kept mentioning a few exceptions, including Pak Yap, to his argument. Exasperated, he finally ordered me to stop mentioning Pak Yap, because he was an unreasonable exception to every rule. Another friend, a well-known intellectual, wrote to me that Pak Yap's reputation had nothing to do with theories and ideas but only principle, integrity, and courage. Only.

Yap Thiam Hien was not a complicated man, but he fit no mold that would have made him obvious. Of his courage, directness, capacity for moral outrage, and unwillingness to keep quiet in the face of unethical or merely sloppy behavior (in which case he was accused of irascibility and stubbornness), the usual explanations are either his upbringing in Aceh or his devout Protestantism. He himself, when asked, sometimes fell back on the same saws, though mainly to dismiss the question. If so, however, Aceh and Christianity should have produced more of the type. They count, no doubt, as do his *peranakan* Chinese origins (which, interestingly, few ever bother to mention) but much else had to go into the mix.

He was born into comfort and high status, on May 25, 1913, in Kutaraja (now Banda Aceh) to the family of the Luitenant der Chineezen, his great-grandfather. It was a time

when the disability of the Chinese minority and the advantages of the *officiëren* were fading with changes in colonial policy. Before the young Thiam Hien had much time to enjoy them, the Yap family fortunes declined during the late 1910s, disappearing into bankruptcy. When he was nine, Thiam Hien's young mother died. Thereafter he and his younger brother and sister were cared for by the mistress of their late grandfather. This *nenek tiri* (step-grandmother) is a startling oddity in the family history, for she was Japanese—Sato Nakashima (d. 1949)—originally from Nagasaki, evidently a devoted and strong woman who became the center of the children's lives. If any single early influence accounts for Pak Yap's character it was probably hers.

His education was as good as the colony offered, which for a few was superb, and he took to it enthusiastically. After European primary school (ELS) in Kutaraja, Thiam Hien followed his father to Batavia, where he entered junior high (MULO), and then completed his secondary education, with scholarship assistance from the government, in the AMS-A program in Yogyakarta. He was particularly interested in history and excelled in European languages, becoming fluent not only in Indonesian, his first language, and Dutch but also English, French, German, and Latin. He knew only a few words of Chinese.

Finding no work in the depression year 1933, he enrolled in the Hollandse-Chinese kweekschool in Meester Cornelis (Jatinegara), which trained teachers for Chinese stream Dutch language schools. The HCK was a godsend for capable young *peranakan* who wanted professional careers but could not afford university in Indonesia or Holland. Like other colonial institutions, however, it also channeled them back into the ethnic Chinese community. Thiam Hien finished the course within a year and took teaching jobs in privately funded Dutch language Chinese elementary schools (HCS) in Cirebon and Rembang, where most of his students were from families too poor for the government schools. In 1937 he returned to Batavia, found work selling telephone subscriptions and teaching, and decided to study law in the Rechtshogeschool. At about the same time, in 1938, after years of thinking about it, he converted to Protestantism, joining the major Reformed church for Chinese.

Out of school during the occupation, he proved incompetent at petty trade but found an office job in Sukabumi. When the war ended Thiam Hien was thirty-two and eager to see the world outside. He worked his way to Holland on a Dutch repatriation ship, writing articles for *Sin Po* while he was at it that revealed growing sensitivity to issues of colonialism and racism. Admitted to the Leiden law school, he completed his degree in mid-1947. Never single-minded about his studies, and uncertain about a career, he also used his time in Holland to deepen his religious commitments, reading widely in the progressive works of German and Dutch theologians, and began to develop a nationalist conscience in defense of the revolution at home.

In early 1949, soon after returning to Jakarta, Pak Yap married Tan Gien Khing, whom he met during the occupation. For forty years she calmed, as much as anyone could, the constant turmoil of Pak Yap's soul. They had two children. At first he worked in his church as a youth counselor. Only at the end of 1949 did he begin practice as an advocate, joining a well-established firm in which his more senior colleagues, including Tan Po Goan (PSI) and Oei Tjoe Tat, were politically engaged in and out of the Chinese community.

From the start Pak Yap was oriented to public service. Active in the church and in a legal aid effort of *Sin Ming Hui*, an important new social service organization, and out-

spoken on issues of Chinese citizenship, almost inevitably he was drawn into politics. It was not really his cup of tea. Intellectually he was too critical and temperamentally too independent to accept the limiting logic of partisan politics and party discipline. A founding member of Baperki (Badan Permusjawaratan Kewarganegaraan Indonesia) in 1954, he was elected one of the vice-chairmen, essentially representing ethnic Chinese Protestants. As Baperki's leader, Siauw Giok Tjhan, slanted the organization towards the Communist party, the only major party sympathetic to *peranakan* problems, most Catholic, Protestant, and other figures who disagreed left rather than try to contend with Siauw's political ability and influence. Pak Yap stayed and fought it out to the quite predictable end of his utter defeat. Politically isolated and ostracized, it was then that he began to develop a reputation for quixotic courage. Rather much alone, he opposed any support of the PKI, not in the first place because he was anti-Communist, though he was, but because it was foolish for a vulnerable minority to take ideological sides. He also loudly opposed Siauw's decision to support Soekarno's *Konsepsi* and, later, the return to the 1945 Constitution, which he alone of Baperki members in the Constituent Assembly voted against. His reasoned argument then, as afterwards, was that the concentration of political power in the 1945 Constitution was bound to endanger human rights.

Pak Yap was never comfortable in Chinese politics, partly because he was a perpetual outsider to the insider connections and intimacies of the Javanese *peranakan* who dominated the game, but moreover because "Chinese politics," like the HCK and HCS and the Chinese Protestant church which he had joined, perpetuated the racial camps established by colonial policy. As with many *peranakan*, Pak Yap's upbringing, education, and experience made it impossible to define him in simple ethnic or cultural terms. Always aware of his cultural marginality, which he shared with thoughtful others who were well educated in Dutch schools, he never regretted being Chinese, but he refused to submit to the usual consequences of the accident of being Chinese. The liberating identity he insisted upon was that of Indonesian citizen, fully equipped with all the rights and responsibilities of citizenship, about whose implications, moreover, he had much to say.

For this, however, he required an appropriate community, which he found partly in Protestantism but largely in the professional advocacy. Pak Yap's principal public commitments were to his religion (more than his church, which he seldom attended after it failed to condemn the slaughters of 1965) and to the *negara hukum*, the rule of law. In recognition of his contributions, during the late 1960s he was appointed to the boards of both the World Council of Churches and the International Commission of Jurists. It was largely in Peradin, however, the Indonesian Advocates Association, where among other senior advocates he discovered the professional fellowship and values that allowed him to break out of the constraints that surrounded the ethnic Chinese community.

By the time of the 1965 coup, Pak Yap had already come to the view that the defense of minority rights made sense only as part of a struggle for the rights of all citizens. To this he devoted himself for the rest of his life. The last specifically *peranakan* issue he dealt with, during the late 1960s, was the adoption of ethnic Indonesian names, which he opposed fiercely on grounds that it was essentially coercive, illusory, and prejudicial. But he became widely known outside *peranakan* circles for his skilled defense of Subandrio before the military tribunal extraordinary, in 1966, and as a result of the Yap Affair of January 1968, when he was arrested and detained for a week by a prosecutor and police official whom he had accused of extortion. Later he was sued by the two officials but eventually acquitted and exonerated by the *Mahkamah Agung* (Supreme Court). In both

instances his personal courage and professional integrity were striking. Few professional advocates at all, let alone those of Chinese descent, were prone to take the risks he regarded as a matter of professional principle, and it won him respect, appreciation, and much head-shaking. Pak Yap seldom was reckless, but in and out of court, whether in litigation or in the press or in public meetings, he spoke to issues directly, to put it mildly, and without regard for personal consequences. After the Malari riots of January 1974 he was detained for nearly a year, refusing (like his younger friend and colleague Buyung Nasution) to make any concessions at all to his jailers.

When Buyung founded the Lembaga Bantuan Hukum (Legal Aid Institute) in 1971, under Peradin sponsorship, Pak Yap was one of the senior advocates to whom he naturally turned for support. Pak Yap remained intimately involved with the legal aid project thereafter, giving advice and encouragement, helping to resolve issues and to set new agenda, trouble shooting, and defending political cases in cooperation with LBH attorneys. In nearly every major national project of legal reform or the defense of human rights he was involved in some way from the late 1960s until his end.

For his defense of principles he paid a price, though it never occurred to him that it was too much. Pak Yap never became wealthy from his practice, but he never thought that being wealthy was an especially interesting or worthwhile reason for working. During the last fifteen years clients generally avoided him unless the odds were hopelessly against them anyway. Refusing to use the law "flexibly" and quick to react against those who did, he was not popular among legal officials. Prosecutors warned accused persons not to ask Pak Yap to represent them, and judges, uncomfortable with him in court, were often hostile. A few years ago, the Jakarta prosecution indicted Pak Yap himself, a kind of harassment which he took in stride. The details aren't worth recounting, but the case is a minor study in legal pathology of the sort Pak Yap loved to attack. Prosecutor and judge both were obviously eager to have at Pak Yap and through him, perhaps, the advocacy. When at length the prosecutor thought the case nailed down, Pak Yap pointed out that there was actually no case at all, for apart from everything else, the statute of limitations had run out. In fury, the judge sentenced him anyway, and the appellate court, with no more valid grounds, upheld the decision. (*Mahkamah Agung* judges no doubt would like to ignore the matter now, but overturning the lower courts would be a reasonable gesture of respect. It is not likely.) Pak Yap laughed about it, as he did about much else that was absurd.

Genuinely principled, personally and professionally confident, demanding and impatient, Pak Yap was not always easy to get along with, as many grumbled who had ever tangled with him on a significant issue. But he demanded less of anyone else than of himself. And for himself he asked nothing. He fought with many and challenged more—political leaders, judges, prosecutors, police, colleagues, his church, the Old Testament, parts of the New Testament, and even, I suspect, his God. But he was also his own toughest critic. Pak Yap stood out, among other things, for confronting his marginality and outwitting it for the sake of making himself useful as a public man. And as a public man he set a superb example, certainly for his courage, but also for his ability to remain outraged by injustice of any kind, and his insistence that the principles that counted did not serve oneself first. He was not out of place or time, as some think. Pak Yap was one of those rare people made for troubled times, to remind everyone else how important standards are and what it takes to live by them.